

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

CATHERINE E. HINMAN, et al.	:
	:
v.	: Civil Action No. DKC 15-1364
	:
CLEAN CUT LANDSCAPING & EXCAVATING, LLC, et al.	:

**MEMORANDUM OPINION and ORDER**

Defendants have moved to dismiss Plaintiffs' diversity motor tort case pursuant to Fed.R.Civ.P. 12(b)(6), contending that the complaint fails to state a claim because Plaintiff Hinman was negligent as a matter of law and cannot recover damages. They assert that Plaintiff entered the travel portion of Solomons Island Road before she was struck by Defendant Pitcher's vehicle, and that he never left the travel portion of the highway, where he had the right of way. Plaintiffs counter that Defendants misstate the facts alleged in the complaint.

Plaintiffs are correct and the motion to dismiss will be denied. While the complaint alleges that Plaintiff Hinman pulled past the stop sign toward Solomons Island Road, it also asserts that she did not enter the larger road. It also states that Defendant Pitcher's vehicle veered into the right turn lane of Solomons Island Road, but instead of making the right turn

onto Skinners Turn Road, he collided with Plaintiff's vehicle which was still on Skinners Turn Road.

Under the circumstances, the motion to dismiss will be denied.

Accordingly, it is this 15<sup>th</sup> day of July, 2015, by the United States District Court for the District of Maryland, ORDERED that:

1. Defendants' motion to dismiss for failure to state a claim upon which relief can be granted pursuant to Federal Rule 12(b)(6) (ECF No. 3) BE, and the same hereby IS, DENIED;

2. The clerk will transmit copies of this Order to  
counsel of record.

/s/  
DEBORAH K. CHASANOW  
United States District Judge